



# UTAH JUDICIAL COUNCIL

ANNUAL REPORT TO THE CHIEF JUSTICE,

GOVERNOR, AND LEGISLATURE



# 2022



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## THE UTAH JUDICIAL COUNCIL

The Utah Judiciary is governed by the Judicial Council, a sixteen-member group of justices, judges, and a commissioner selected by the Utah Bar. The Council is the voice of the judicial branch. It meets at least one day each month and oversees the administration of the judiciary.

The Utah Judicial Council is established in the Utah Constitution. This sixteen-member group is the voice of the Judicial Branch and is responsible for general management of the courts, adoption of uniform policies for general administration of the courts, including facilities, court security, support services, staffing, budgeting, and all other administrative matters. The Council meets at least one day each month to oversee the administration of the judiciary. Judge members of the Council are elected by their peers to serve three-year terms, while simultaneously maintaining the regular

duties of their appointed office. The Utah State Bar Board of Commissioners also appoints one of its members to serve on the Council.

The Council is supported by four executive committees: Management Committee; Liaison Committee; Policy & Planning Committee; and Budget and Fiscal Management Committee. The Council also coordinates its work through a number of standing committees, the court-level boards of judges, and managers working in both the judicial districts and at the Administrative Office of the Courts. The details for these groups can found at <https://www.utcourts.gov/committees/>



## JUDICIAL COUNCIL MEMBERS



*Honorable Matthew B. Durrant, Chief Justice, Utah Supreme Court*     *Ron Gordon, State Court Administrator\**



*Judge Todd M. Shaughnessy, Vice Chair, Third District Court*



*Judge Keith Barnes, Fifth District Court*



*Judge Samuel Chiara, Eighth District Court*



*Judge Augustus Chin, Holladay Justice Court*



*Judge David Connors, Second District Court*



*Judge Ryan Evershed, Eighth District Juvenile Court*



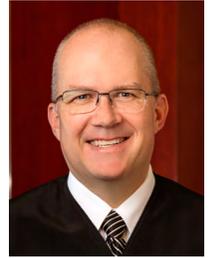
*Judge Paul Farr, Alta, Herriman, and Sandy Justice Courts*



*Judge Michelle Heward, Second District Juvenile Court*



*Judge Mark May, Third District Juvenile Court*



*Judge David Mortensen, Court of Appeals*



*Judge Kara Pettit, Third District Court*



*Justice Paige Petersen, Utah Supreme Court*



*Margaret Plane, Utah State Bar Representative*



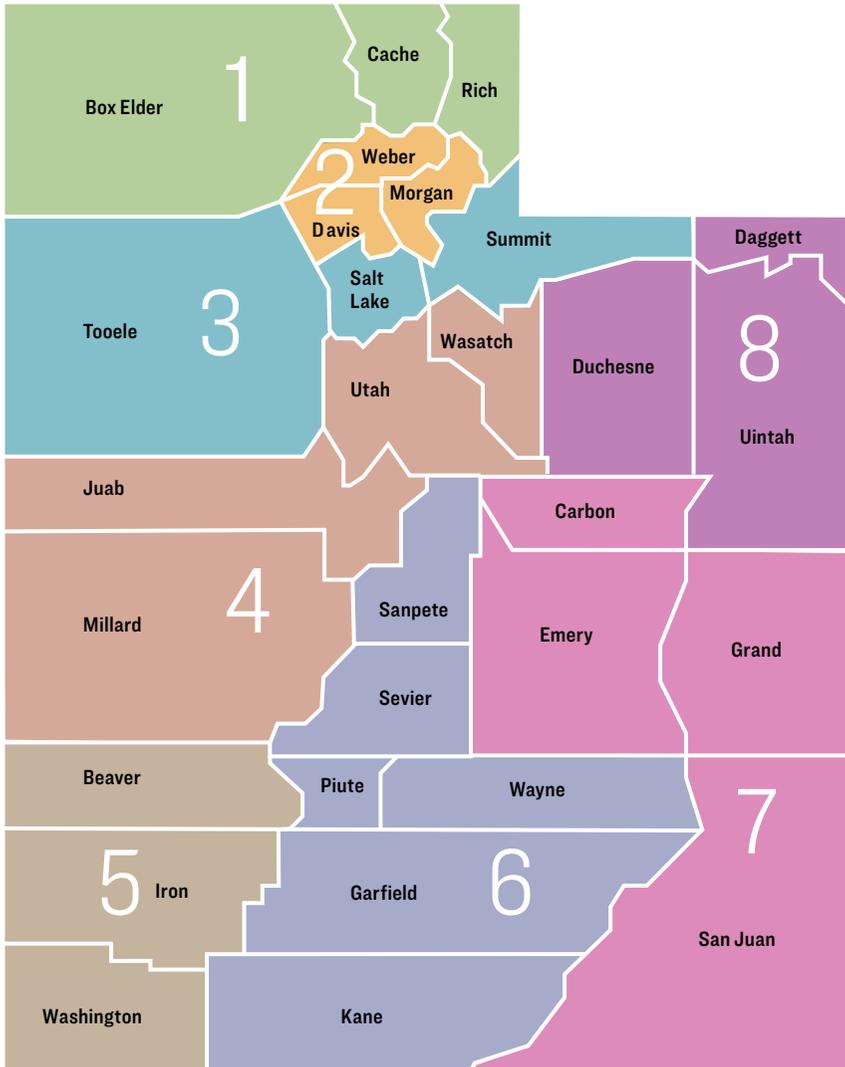
*Judge Derek Pullan, Fourth District Court*



*Judge Brook Sessions, Lindon and Wasatch County Justice Courts*

*\*The State Court Administrator serves as the chief administrative officer of the Judicial Council and is not a member of the Council.*

# JUDICIAL DISTRICTS



## INNOVATION IN THE COURTS

The mission of the Judiciary is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law. This mission is the foundation for all decisions made regarding the work of the Utah Judiciary. The mission has guided our efforts to respond to the unprecedented challenges from the pandemic, and to innovate and adapt the way in which the Judiciary provides access to justice. Nearly every aspect of our work has been impacted to some degree. Some changes have proved to be beneficial to our work and patrons and will continue in the future. Some changes are temporary measures until we can return to something similar to pre-pandemic operations. Many changes are still being evaluated.

### **Virtual Court Proceedings**

Similar to many organizations and individuals, the Utah Judiciary implemented and relied heavily on virtual meetings throughout the course of the pandemic. All court levels made use of technology to conduct virtual court in nearly every kind of proceeding other than jury trials. While we do not fully understand all of the impacts of virtual hearings, we know that virtual hearings helped the courts provide access to justice during a critical time.

In many respects, virtual court provided increased access to justice and brought court to the people, rather than people to the court. Many individuals avoided the need to take time off work through virtual court. Attorneys, parties, and witnesses avoided travel time and expenses by appearing remotely. People located in rural areas could seek the help of attorneys in urban areas without having to pay extra travel costs.

Virtual court also brought new complications. Though virtual appearances were usually very efficient, they occasionally caused proceedings to slow, as some people encountered problems with their internet or with audio or video connections. Other times, background noise impacted the quality of the court recordings.

Solving those problems resulted in increased judicial assistance work, many hours of IT staff work, and sometimes, delays in court proceedings. During the course of the pandemic, many factors impacted the overall efficiency of courts.

The Judiciary has continuously worked to address issues for remote technology and appreciates the ARPA funding we were authorized to use for these purposes. We are also evaluating the ongoing use of virtual court proceedings. Virtual hearings will almost certainly be part of the operations of the Judiciary moving forward. We will collaborate with our community partners, our urban and rural judicial districts, and the public to determine the best way to deploy virtual and in person proceedings as part of our mission to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.

### **Self-Help Center**

The Judiciary's Self-Help Center and IT Department launched MyCase, an innovative tool designed to increase access to justice. Though MyCase was being planned before the onset of the pandemic, the need to adapt to changing circumstances expedited its release. MyCase allows parties in certain types of cases to easily access information about their case through an online portal. Users can view case information history and most documents filed in their case; and can make payments when applicable. Users in some cases can also file documents through MyCase.

The implementation of MyCase allows the Judiciary to create additional transparency for court patrons. They will no longer have to rely on court employees providing this information during business hours. Instead, court patrons will be able to access important information about their case at any time and from any place as long as they have an internet connection.

## INNOVATION IN THE COURTS

MyCase is available for the following case types in district court and justice court: criminal, divorce, debt collection, eviction, temporary separation, and small claims. The Judiciary plans to expand the case types available on MyCase in the coming months and years.

MyCase will be particularly useful for self-represented parties who do not have easy access to information about their case. This was a particularly important reason for the launch of MyCase as the Judiciary continues to look for ways to make the court experience more accessible.

The Self-Help Center responded to over 23,000 contacts in FY21. Contacts came by phone, text, email, and mail from patrons of Utah courts residing in Utah, 30 other states and territories, and three countries outside the United States. The Self-Help Center assisted on a wide variety of topics including divorce, custody, debt collection, eviction, expungement, and probate among others. The Self-Help Center also provided a great deal of proactive training and information regarding eviction proceedings in an effort to help provide access to justice during times of uncertainty.

The Self-Help Center understands that seemingly small changes can pave the way for significant improvements in access to justice. They recently added QR codes to the form summons and notice of motion. The QR codes help court patrons access assistance navigating the court process. Since adding the QR codes, there has been a 15% increase of traffic to the webpage providing assistance with filing an answer to a complaint.

The Self-Help Center is a critical component of the Judiciary's efforts to provide access to justice at all times and has been particularly important for many patrons during a time of less in-person contact and more virtual contact.

### **Office of Fairness and Accountability**

The Judiciary launched the Office of Fairness and Accountability (OFA) this year. Access to justice is a crucial component of the work of the OFA as it

works to fulfill its mission of addressing any bias in the courts. The OFA began its access to justice work by focusing on building public trust and confidence among historically marginalized communities.

Throughout the year, the OFA has been meeting with and engaging community partners, including community based organizations, and working with these populations to better understand their needs and experiences. Because access to justice issues cannot be resolved without the trust of those affected by the work of the courts, these relationships and partnerships are critical to the work of the OFA.

The judicial system confounds many. When a language barrier is added, that confusion only escalates. The Language Access Program ensures limited English proficiency, deaf, or hard-of-hearing court parties and patrons have meaningful access to Utah Courts through court interpreters. The Program has done a tremendous job in helping the public understand their cases in their native language.

### **ODR and Mediation**

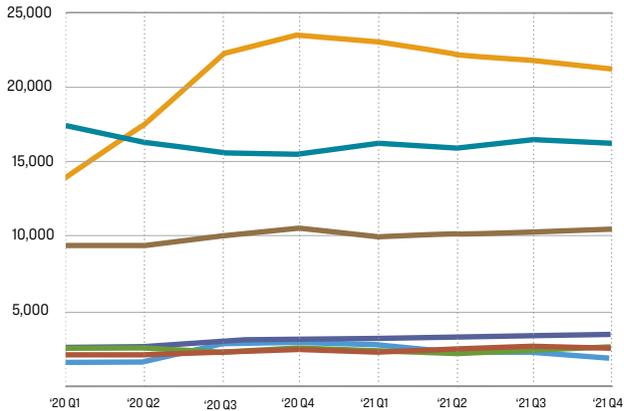
All state court administered mediation programs moved online in April 2020. Moving the Child Welfare Mediation Program online presented the biggest challenges because of the volume of referrals and strict statutory timelines. Child welfare mediation referrals increased from a typical pre-pandemic annual count of 1,440 to 1,643 in FY21, which is an increase of approximately 14%. Mediators learned to manage the conflict resolution and computer technology simultaneously in order to continue providing access to this critical service.

The Online Dispute Resolution Program (ODR) has been operating for three years. The program allows litigants in small claims disputes to communicate asynchronously with each other and an online facilitator to try to resolve their issues before the case goes to a judge. ODR started with a single justice court in 2018. As of January 2022, there will be at least 28 justice courts using the platform and we continue to expand the service to additional courts.

## A CASE STUDY | DISTRICT COURTS: CASES AND DAYS PENDING

### AVERAGE NUMBER OF CASES PENDING

- CIVIL CASES
- CRIMINAL CASES
- DOMESTIC CASES
- PROBATE CASES
- PROPERTY CASES
- TORTS CASES
- TRAFFIC CASES

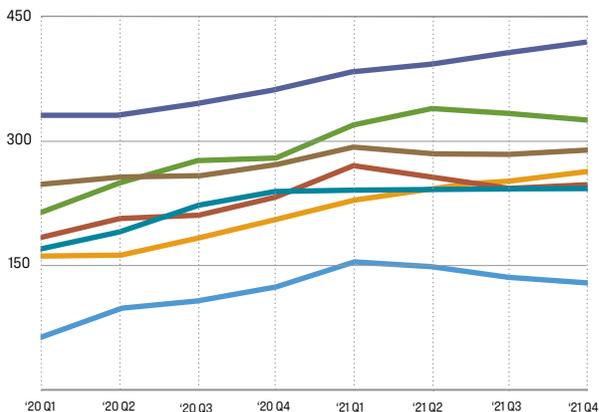


#### AVERAGE NUMBER OF CASES PENDING:

Pending cases are those active cases that have been filed and not yet resolved to a final judgment. Over the last two calendar years, the district courts have continued to effectively process all case-types to completion consistent with pre-pandemic norms, with one exception: criminal cases. In 2020 Q2, a significant number of criminal cases accumulated in district courts, pushing the average number of pending criminal cases from the typical 13,700 to a highwater mark of more than 23,000 pending criminal cases in 2020 Q4. This is entirely attributable to pandemic-related interruptions to then-established workflows that the Judiciary was required to rearchitect by transitioning to virtual court processes. Since that time, the district courts have made progress in reducing the number of pending criminal cases and will continue this important work throughout 2022.

### AVERAGE NUMBER OF DAYS PENDING

- CIVIL CASES
- CRIMINAL CASES
- DOMESTIC CASES
- PROBATE CASES
- PROPERTY CASES
- TORTS CASES
- TRAFFIC CASES



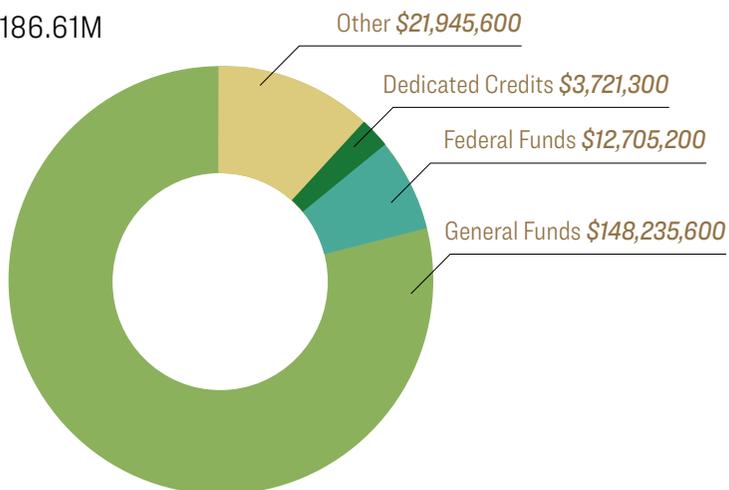
#### AVERAGE NUMBER OF DAYS PENDING:

Although the district courts have continued to effectively address the majority of pending cases without seeing an increase in the “Average Number of Cases Pending,” it is clear that pending cases are currently taking a greater number of days to resolve than compared to typical pre-pandemic rates. Currently, nearly all case types are requiring anywhere from 50–100 additional days to resolve. The Judicial Council is currently studying the reasons that contribute to this significant increase in the number of days cases are pending, including the litigation practices of the parties and the court, virtual vs. in-person vs. hybrid hearings, and any other contributing factor that can be identified.

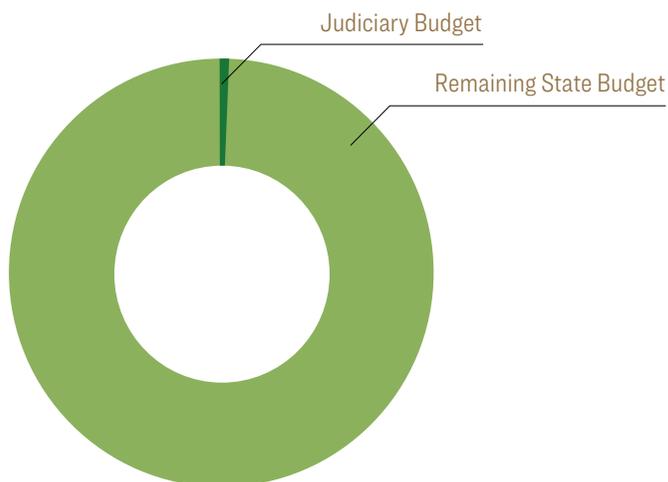
# OPERATION OF THE COURTS

## 2021 FINANCIAL DATA

FY21-22 SOURCES \$186.61M



**Judicial Branch**  
*.73% of all funding,  
 including state and federal*



### All Funds Including State and Federal Sources

Total State of Utah Budget:	\$25,629,036,000
Total Judiciary Budget:	\$ 186,607,700

## JUDICIAL ASSISTANTS' CRITICAL ROLE WITHIN THE COURTS



Judicial Assistants make up more than 40% of all court employees and are critical to the Court's mission to provide people with an open, fair, efficient, and independent system for the advancement of justice under the law. They act under the authority of their assigned judicial officers to ensure that all administrative needs are met. Inside the courtroom, Judicial Assistants may be simultaneously running three or more computers to record the audio, display the virtual participants, take minutes, accept digital exhibits, create orders and documents and enter information into the court databases. Outside of the courtroom, Judicial Assistants can be found corresponding with attorneys, patrons, allied agencies and other community members to answer questions, provide instruction, accept filings, schedule hearings, arrange payments and much, much more.

Unfortunately, the average pay rate for Judicial Assistants is 25% below market value. Over the last decade, the three-year average turnover rate for Judicial Assistants in Utah was 8.65%, but that percentage has been steadily increasing. In 2021, the turnover rate was an unsustainable 25%. Continuing to pay our Judicial Assistants below market value places critical judicial branch functions at too great a risk. For this reason, the Judicial Council has made securing funding for a Judicial Assistant compensation increase its number one budget request priority for FY2023. The citizens of Utah, including court patrons, attorneys, and so many others, must be able to rely on skilled, consistent, and dependable Judicial Assistants.

# JUDICIAL BUDGET REQUESTS

## FY2023 Budget Priorities and Building Block Information

Ongoing and one-time funding requests, as established by the Judicial Council (listed in order of priority)

\* = fully funded one-time for FY2022 † = mostly funded one-time for FY2022

	ONGOING	ONE-TIME
#1: Judicial Assistants – Recruit & Retain	\$3,900,000	
#2: Information Technology – Development & Security	\$1,122,000 †	
<ul style="list-style-type: none"> <li>▶ Online Court Assistance Program (OCAP) \$210,000 *</li> <li>▶ Microsoft Licensing \$72,000 *</li> <li>▶ Rural Courthouse Bandwidth Increases \$25,000 *</li> <li>▶ Webex Licensing \$45,000 *</li> <li>▶ Cybersecurity Infrastructure \$450,000 *</li> <li>▶ Cybersecurity Ransomware Insurance \$320,000</li> </ul>		
#3: Public Outreach Coordinator	\$120,000 *	
#4: New Juvenile Court Judge – Sixth District	\$449,100	\$25,000
#5: Court Visitor Program Coordinator	\$92,100	
#6: Statewide Treatment Court Coordinator	\$97,700	
	\$5,780,900	\$25,000

### #1: JUDICIAL ASSISTANTS: RECRUIT & RETAIN — \$3,900,000

**PURPOSE:** stabilize unacceptable Judicial Assistant (JA) turnover rates by correcting inadequate compensation

- ▶ More than 40% of judicial branch FTEs are JAs (455 FTEs), each of whom serves a critical core function in court operations. Courts simply cannot reliably operate without well-trained, dedicated judicial assistants.
- ▶ Over the last decade, the three-year average JA turnover rate has increased from a manageable 8.65% to an unsustainable 25%. After careful review, this appears to be attributable to inadequate compensation:
  - ▶ in 2011, JA compensation was 80% of the average Utah non-farm rate — by 2021, that had slipped to only 70%;
  - ▶ in 2016, JA compensation was \$1.92 (or 10%) less than comparable private sector employment — by 2020, that gap widened to \$4.51 (or 20%).
- ▶ The judicial branch is doing everything possible to internally address this issue, but the challenge requires legislative assistance and budget prioritization.

## #2: INFORMATION TECHNOLOGY:

### DEVELOPMENT & SECURITY — \$1,122,000 †

#### **\$210,000\*** — Online Court Assistance Program (OCAP)

**PURPOSE:** hire two dedicated OCAP technical support staff

OCAP is a computer system that helps self-represented parties generate necessary legal forms. For many individuals, OCAP is the only method for them to prepare documents to file or respond in a court case. The system requires continual maintenance and technical support to update for statute changes, security best-practices, and to expand to new case types.

#### **\$72,000\*** — Microsoft Licensing

**PURPOSE:** maintain upgraded Microsoft software

The courts rely on Microsoft Office as the standard for documents in the legal field. The licensing model for this software is now subscription-based, requiring ongoing annual renewal to maintain necessary access for judges and relevant staff.

#### **\$25,000\*** — Rural Court Location Bandwidth Increases

**PURPOSE:** provide parties, attorneys, judges, and court staff with sufficient bandwidth at rural courthouses

Internet bandwidth is limited in rural Utah. In our current technology-based legal landscape where web-based video is often used for official court business, insufficient bandwidth artificially constrains what can be accomplished in rural courthouses, limiting efficiency for patrons and for the courts that serve them.

#### **\$45,000\*** — Webex Licensing

**PURPOSE:** continued access to remote meeting software for court hearings

Remote court hearings are proving to be advantageous for parties and attorneys for many hearing types. The judiciary anticipates these types of remote hearings will continue in the future, and needs funding to pay for necessary licensing.

#### **\$450,000\*** — Cybersecurity Infrastructure

**PURPOSE:** maintain a robust cybersecurity platform equal to modern-day challenges

The judiciary's cybersecurity software protects court systems and data from cyberattack. This software is operationally necessary, blocking hundreds of thousands of potential threats every month. The software platform must be renewed in May 2022 to maintain existing protections.

#### **\$320,000** — Cybersecurity Ransomware Insurance

**PURPOSE:** obtain insurance to offset potential costs associated with any future successful ransomware attack

Though rare, government entities (including courts) have been victims of successful ransomware attacks over the last several years (e.g., Atlanta, Texas, Louisiana). Coupled with the "\$450,000 Cybersecurity Infrastructure" request above, this is a belt-and-suspenders approach to insuring court operations without risking a potentially paralyzing fiscal impact.

### #3: PUBLIC OUTREACH COORDINATOR — \$120,000 \*

**PURPOSE:** to establish consistent, sustainable bridges with marginalized communities

Previously paid for with one-time funding, this coordinator is currently providing critical support for public outreach and education in all of Utah's communities, with a special focus on those communities that have expressed perceived bias due to race and gender. These efforts are increasing public trust and confidence in the courts and should be funded ongoing.

### #4: NEW JUVENILE COURT JUDGE – SIXTH DISTRICT — \$449,100 + \$25,000 ONE-TIME

**PURPOSE:** increase juvenile court capacity in six Utah counties to match demand

The Sixth Juvenile District includes Sanpete, Sevier, Piute, Wayne, Garfield, and Kane counties. Currently a single juvenile court judge serves nearly 70,000 residents spanning across nearly 16,000 square miles. This regularly requires significant travel time, often resulting in unfortunate, but necessary, delay. This single juvenile court judge is carrying the caseload of 1.6 judges. An additional judge will allow the juvenile court to more promptly serve the child welfare needs and the juvenile delinquency challenges of the citizens of these rural counties.

### #5: COURT VISITOR PROGRAM COORDINATOR — \$92,100

**PURPOSE:** improve ability to promptly provide reliable, verified guardianship information to judges

Since 2012, the Court Visitor Program has delivered an essential service to the courts by monitoring guardianships and conservatorships, providing reliable and verified information to judges through careful coordination with trained volunteers to investigate the circumstances and well-being of protected persons, locate guardians who do not keep the court updated, and audit records. Guardianship case filings have increased more than 30% over the last five years. Lacking sufficient resources, the program is unable to address existing needs promptly and adequately, taking up to 12 weeks (instead of the typical 6-8 weeks) to provide responsive information to the court. This new coordinator will allow the program to work with additional volunteers to convey information more effectively to the court.

### #6: STATEWIDE TREATMENT COURT COORDINATOR — \$97,700

**PURPOSE:** provide support for the 65 district and juvenile problem-solving treatment courts operating across Utah

Problem-solving courts (like drug court, mental health court, and veterans treatment court) are dedicated court calendars staffed by a multi-disciplinary team of trained professionals to serve a specific population of individuals who receive treatment, community supervision, regular court appearances, and program support in order to help these individuals successfully exit the criminal justice system and enter lives of recovery and stability. Currently, these problem-solving courts operate without the benefit of a full-time statewide coordinator to provide operational and technical support, and to streamline education, certification, and evaluation efforts for delivery of effective services, including statewide performance-based data tracking.

# COURT INITIATIVES PROGRESS REPORT

## Mental Health and the Justice System

In July 2019 the Judicial Council adopted an initiative regarding mental health and the criminal justice system. The August 2020 kick-off event was postponed due to the pandemic, but, in August 2021, the Council, in collaboration with the Utah Legislature, Governor's office, and the Utah Division of Substance Abuse and Mental Health (DSAMH), held a Summit on Improving Court and Community Responses to those with Mental Health Conditions. The Summit was well-attended by key stakeholders across the State, including mental health treatment professionals, law enforcement, jail and corrections personnel, judicial officers and administrative staff, prosecutors, defense attorneys, and legislators. Stakeholders heard from local and national experts about successful interventions in Utah and nationally, and local teams were established in each judicial district to advance the effort locally.

Local stakeholder teams have met and begun the process of mapping resources and identifying the top priorities for reform. The Council is facilitating quarterly virtual meetings during which representatives from the local teams can report on progress, obtain assistance and exchange ideas. The first quarterly meeting was held in November 2021 and the local teams reported exciting progress in advancing the goals of the initiative.

## Regulatory Reform Update

The Office of Legal Services Innovation is an office of the Utah Supreme Court tasked with administering and regulating the Utah Legal Sandbox, a policy space which permits and regulates new legal business models and new legal services to innovate and enable the provision of legal services to low and middle income households as well as small businesses. Since the Office of Legal Services Innovation's launch in August of 2020, the Utah Supreme Court has authorized thirty-two entities to form alternative business structures and/or non-traditional legal services. The participating entities are offering services primarily in family law, business, end of life planning, personal finance law, personal injury, and legal issues facing veterans. These entities have provided approximately 8500 authorized legal services while providing detailed monthly reports including number and types of complaints. To date there have only been 5 complaints, none of which involved unauthorized referral fees, solicitation, or privacy concerns. Several states along with Ontario, Canada are following Utah's legal services Sandbox model.

To learn more, visit <https://utahinnovationoffice.org>



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